IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 759 of 2001

In

SPECIAL CIVIL APPLICATION No. 10722 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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CELLULOSE PRODUCTS OF INDIA LTD - Petitioner(s)

Versus

MOHANBHAI NAGJIBHAI PATEL - Respondent(s)

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Appearance :

MR KM PATEL for Petitioner No(s).: 1.

MR RV DESAI for Respondent No(s).: 1.

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 04/07/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE R.S.GARG)

Heard the learned counsel for the parties. Learned counsel for the appellant submitted that material admissions which could have positive bearing on the claim of the respondent-workman for negativing the same were not taken into consideration by the Labour Court, so also the Labour Court was absolutely unjustified in ignoring the affidavit submitted by the appellant simply on the ground that some lawyer had not identified the deponent. His submission is that the affidavit, if was not to be taken note of because of this minor irregularity, then the Court could have asked the appellant to file yet another affidavit. His further submission is that if the deponent is known to the competent officer authorised to administer oath, then the identification is not required. His submission is that if admissions made by the respondent workman were taken into consideration in their true perspective, the findings as recorded by the learned Labour Court could not have been recorded.

1. Learned counsel for the respondent on the other hand submitted that the findings recorded by the learned Labour Court are in accordance with law and if the same have been confirmed by the learned Single Judge Judge there is no scope for interference in this appeal.
2. After going through the evidence we are of the opinion that the learned Labour Court was required to marshal the evidence in its true perspective. We certainly could have re-appreciated the evidence after recording a finding that the approach of the learned Labour Court was perverse, but taking into consideration the totality of the circumstances we are of the considered opinion that the matter must be remanded back to the learned Labour Court for re-hearing the parties on the strength of the evidence available on the record. We would not allow the parties to lead further evidence except a little liberty in favour of the appellant to file a fresh affidavit, showing proper identification by an advocate. The learned Labour Court shall give proper hearing to both the parties and shall re-decide the matter in accordance with law after taking into consideration the evidence-oral and documentary brought on record. The appeal is allowed. The judgement by the learned Single Judge is set aside and the award made by the learned Labour Court is quashed. The parties present in the Court shall appear before the learned Labour Court on 26th July 2005 and the learned Labour Court shall give further instructions to the parties. As the matter is very old we request the learned Labour Court to dispose of the matter within a period of four months from the date of appearance of the parties. Direct service is allowed.

(R.S. Garg, J.)

(Ravi R. Tripathi, J.)

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